

Notice of Allowability

Application No.

09/373,576

Examiner

Yogesh C. Garg

Applicant(s)

KELLY ET AL.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Decision of Board of Appeal dtd 1/13/06 & Interview Summary on 4/26/06.
2. ☒ The allowed claim(s) is/are 1-12, 26-28 and 30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 01/29/2002.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 4/27/2006.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Y. C. Garg
Primary Examiner

DETAILED ACTION

1. This action is being written pursuant to the Decision of Board of Appeal on 1/13/2006.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Ms. Rebecca Rudich (registration # 47463) on 4/27/2006.

The application has been amended as follows:

Claim 1. (currently amended) A method for identifying gardening material comprising:

querying a user for at least one geographic region;

receiving the at least one geographic region from the user;

querying the user for the location of a gardening problem within said geographic region;

receiving the at least one gardening problem from the user;

Art Unit: 3625

querying database and generating a series of questions in response to the received at least one gardening problem;

receiving a response to the series of questions from the user;

querying the database and identifying at least one gardening material based upon a response to at least one of the querying; and

wherein all the above steps are performed using a computer and a computer program running on the computer.

Claims 13 –25 and 29 (canceled).

Claim 26. A method identifying a garden material comprising:

querying a user for a geographic region in which the garden material is to be utilized;

receiving the geographic region from the user;

querying the user for the location of a gardening problem within said geographic region;

querying the user for an object affected by the gardening problem, wherein the object affected by the gardening problem includes at least one of flowers, vegetables, lawn, fruits, trees/shrubs, pets, homes, and pools/spas;

receiving the said location and the object affected by the gardening problem from the user;

Art Unit: 3625

querying the user for a type of gardening problem, wherein the type of garden problem includes at least one of pests, fertilizer need, and information pertaining to seeds;

receiving the type of gardening problem from the user;

determining whether the type of gardening problem is a pest problem, fertilizer need problem, or information pertaining to seeds; and

generating a list of products based partially upon the geographic region; and

wherein all the above steps are performed using a computer and a computer program running on the computer.

Allowable Subject Matter

3. Claims 1-12, 26-28 and 30 are allowed. Claims 1 and 26 are independent, claims 2-12 and 28 are dependencies of claim 1 and claims 27 and 30 are dependencies of claim 26.

The following is an examiner's statement of reasons for allowance:

Reasons for Allowance

Claims 1-12 and 28

3.1. The prior art of record neither anticipates nor renders obvious a computerized method and a computer program identifying a gardening material in a particular location in a selected geographical region by interactive querying with the user comprising, inter alia, querying a user for at least one geographic region, receiving the

Art Unit: 3625

at least one geographic region from the user, querying the user for the location of a gardening problem within said geographic region, receiving the at least one gardening problem from the user, querying database and generating a series of questions in response to the received at least one gardening problem, receiving a response to the series of questions from the user and querying the database and identifying at least one gardening material based upon a response to at least one of the querying. (see independent claim 1).

Claims 26,27 and 30

3.2. The prior art of record neither anticipates nor renders obvious a computerized method and a computer program identifying a gardening material in a particular location in a selected geographical region by interactive querying with the user comprising, inter alia,

querying a user for a geographic region in which the garden material is to be utilized, receiving the geographic region from the user, querying the user for the location of a gardening problem within said geographic region, querying the user for an object affected by the gardening problem, wherein the object affected by the gardening problem includes at least one of flowers, vegetables, lawn, fruits, trees/shrubs, pets, homes, and pools/spas, receiving the said location and the object affected by the gardening problem from the user, querying the user for a type of gardening problem, wherein the type of garden problem includes at least one of pests, fertilizer need, and

Art Unit: 3625

information pertaining to seeds, receiving the type of gardening problem from the user and determining whether the type of gardening problem is a pest problem, fertilizer need problem, or information pertaining to seeds; generating a list of products based partially upon the geographic region (see independent claim 26).

The claims subject matter is supported by the disclosure (see applicant's "summary of invention " on pages 3-4 of the Supplemental Appeal Brief filed on 7/23/2004.

4. Discussion of most relevant prior art:

The following references have been identified as most relevant prior art to the claimed invention(s).

(a) The most closely applicable prior art of record is referred to combination of Sullivan et al. (US Patent 6,477, 531) in view of Gerland et al. ["taking A Spade to the Web") and "National Gardening [" National Gardening Association Home Page", extracted from the Internet on 1/16/2002). Sullivan's method and system provides a support interactive system to help customers with hardware and software problems, Gerland discloses that there are several websites enabling the customers to browse , order catalogs and find gardening tips ranging from gardening pets and growing vegetables and National Gardening is a website which also provides gardening information and support based upon a selected region but neither one of them as individually or combined disclose or render obvious the novel features, underlined above, as a whole.

The arguments by the applicant (see Supplemental Appeal Brief filed on 7/23/2004) and the Decision by Board of Appeals (see pages 7-8) that the combination of cited references does not establish a *prima facie* case of obviousness is compelling.

5. Cited Prior Art:

(i) Trivette, Donald B.; "How does your garden grow? Landscaping with your PC (Multicom Publishing Better Homes and Gardens Complete Guide to Gardening; Books that work 3D Landscape; Green Thums Software LandDesigner Multimedia for Gardens; The Larch Treeselect) (After Hours) (Software Review) (Evaluation)"; PC Magazine, v14, n7, p361 (2); April 11, 1995; extracted from Dialog File 47; 04204941 & Supplier Number: 16693195; "discloses software packages which engage users interactively to know about their requirements, such as temperature zone, soil condition, tree size, etc. and in response provide answers to their queries from a database (see page 3, "TreeSelect.....) but fails to anticipate or render obvious the novel features, underlined above, as a whole.

(ii) US Patent 6,307,573 to Barros discloses a computerized method and system (see Figs.1, 5a, 5b, 10a, 10b, col.5, lines 45-53 and col.20, lines 22-41) discloses engaging customers interactively and providing information from multi-media databases related to travel, gardening, etc. but fails to anticipate or render obvious the novel features, underlined above, as a whole.

(iii) US Patent 6,721,795 to Eldreth discloses a computerized method and system (see Figs.2, 3, , col.4, lines 17-35, col.6, lines 19-48) discloses engaging

Art Unit: 3625

customers interactively and providing data flow from multi-media databases, such as customizing a flower offer based on a geographical location but fails to anticipate or render obvious the novel features, underlined above, as a whole.

(iv) US Patent 6,085,351 McCauley discloses a computerized method and system (see Figs.1-6, , col.2, line 47-col.3, line 12) discloses determining management zones in a field for precision farming but fails to anticipate or render obvious the novel features, underlined above, as a whole.

(v) US Patent 5,440,479 to Hutton discloses a computerized kiosk system allowing an user to engage interactively to select a floral assortment of flowers from an assortment of flowers, flower configurations and flower holders and then completing a purchase transaction (see Abstract, Fig.6 and col.4, line 41-col.5, line 32).

(vi) EP 2555566 A1 to Kitamura et al. discloses an insect-repelling film which is useful as cover for greenhouses and tunnels or for mulching of the ground for crop culture or as a repellent for various insect pests in agriculture and gardening (see abstract) but fails to anticipate or render obvious the novel features, underlined above, as a whole.

(vii) WO 01/02997 A1 to Besling et al. discloses speech enabled browsing on Internet regarding gardening (see Abstract) but fails to anticipate or render obvious the novel features, underlined above, as a whole and is also published after the effective filing date of the applicant's application.

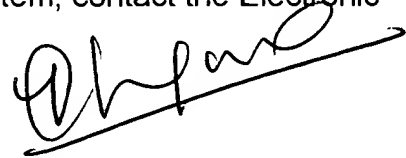
Art Unit: 3625

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg
Primary Examiner
Art Unit 3625

YCG
4/27/06

Application/Control Number: 09/373,576

Page 10

Art Unit: 3625